

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LA UNIÓN DEL PUEBLO ENTERO, et al.,

Plaintiffs,

v.

STATE OF TEXAS, et al.,

Defendants,

HARRIS COUNTY REPUBLICAN PARTY, et al.,

Intervenor-Defendants.

5:21-cv-844-XR
(consolidated cases)

**PRIVATE PLAINTIFFS’ OPPOSED MOTION TO EXTEND
DEADLINES FOR BILLS OF COSTS AND MOTIONS FOR ATTORNEYS’ FEES AND
COSTS RELATING TO SECTION 208 ORDER AND ALL FUTURE ORDERS**

Private Plaintiffs¹ respectfully request that the Court extend their deadlines to file bills of costs and move for attorneys’ fees and costs with respect to the Court’s October 11, 2024 Order resolving their Section 208 claims in their favor. Private Plaintiffs also request similar prospective relief with respect to any future order the Court issues based on the first phase of the bifurcated trial proceedings in this case. At the time of filing of this motion, counsel for Defendants and Intervenor-Defendants had not provided a position on this motion.

Extension of Time with Respect to Section 208 Order

On October 11, 2024, this Court issued findings of fact and conclusions of law holding that Section 208 of the VRA preempted, in whole or in part, SB 1 Sections 6.03–6.07 and 7.04, and

¹ Private Plaintiffs are OCA-Greater Houston, League of Women Voters of Texas, REVUP-Texas, Houston Area Urban League, Delta Sigma Theta Sorority, Inc., The Arc of Texas, Mi Familia Vota, Marlon López, Paul Rutledge, Jeffrey Lamar Clemmons, La Unión del Pueblo Entero, Friendship-West Baptist Church, the Southwest Voter Registration Education Project, Texas Impact, the Mexican American Bar Association of Texas, Texas Hispanics Organized for Political Education, Jolt Action, the William C. Velasquez Institute, FIEL Houston Inc., James Lewin, LULAC Texas, Voto Latino, Texas Alliance for Retired Americans, and Texas AFT.

permanently enjoined numerous Defendants from enforcing, in whole or in part, the preempted provisions. Doc. 1173 at 106–112. The Court also stayed its injunctions for the November 2024 General Election. *See id.* at 102, 108–109 and Doc. 1181. State Defendants and Intervenor-Defendants have both filed notices of appeal with respect to the Court’s order. Docs. 1177, 1179.

A “prevailing party” in an action to enforce the Voting Rights Act may seek attorneys’ fees and costs. 52 U.S.C. § 10310(e). Federal Rule of Civil Procedure 54(d)(2) requires that unless a statute or a court order provides otherwise, a “claim for attorney’s fees and related nontaxable expenses must be made by motion” and must “be filed no later than 14 days after the entry of judgment.” Similarly, costs “should be allowed to the prevailing party,” Fed. R. Civ. P. 54(d)(1), and “[a] party awarded costs shall prepare and file a proposed bill of costs . . . not later than 14 days after the entry of judgment[.]” W.D. Tex. Loc. R. CV-54(a).

When the appeal raises questions about who may be a “prevailing party” entitled to costs and fees, courts may defer adjudicating these issues and extend the deadline to parties seeking costs or fees until after the appeal to preserve judicial resources. *See, e.g., Colonial Oaks Assisted Living Lafayette v. Hannie Dev. Inc.*, No. 6:18-CV-01606, 2019 WL 7290951, at *1 (W.D. La. Dec. 27, 2019) (“[T]his Court believes that it would be in the interest of judicial economy and prudent to wait and consider the attorneys’ fees and costs issue after the appeal has been resolved.”); *Team Contractors, LLC v. Waypoint NOLA, LLC*, No. CV 16-1131, 2021 WL 5911278, at *4 (E.D. La. Nov. 18, 2021), *report and recommendation adopted*, No. CV 16-1131, 2021 WL 5907759 (E.D. La. Dec. 14, 2021) (“Having failed to establish any prejudice from the deferral of the fee determination until after the Fifth Circuit rules and considering the substantial resources that must be expended to determine the appropriate fee award which may be mooted by the appeal, deferral of the fee determination at this time is appropriate.”). Postponing adjudication

on costs and fees until the appeals are resolved would reduce the overall expenses incurred in the case, since the parties would not have to separately litigate costs and fees issues for trial and the appeal but could instead file consolidated briefing all at once.

Given the State Defendants' and Intervenor-Defendants' appeals, Private Plaintiffs respectfully request that the Court exercise its authority to extend their deadlines to file bills of costs and move for attorneys' fees and costs to 30 days after the last deadline for any party to file a petition for certiorari in connection with any appeals stemming from the Court's October 11, 2024 Order (Doc. 1173). If any party petitions for certiorari after the court of appeals' mandate issues, Private Plaintiffs request that the Court further extend these deadlines until 30 days after resolution of the petition for certiorari and any subsequent proceeding.

Extension of Time with Respect to Future Orders

Private Plaintiffs request similar relief with respect to any future order that the Court issues based on the first phase of the bifurcated trial proceedings in this case. Specifically, Private Plaintiffs request that the Court extend the relevant Private Plaintiffs' deadlines for filing bills of costs and moving for attorneys' fees and costs (if applicable) with respect to any such future order to 45 days after the court issues that order. If during the 45 days any Defendant appeals that order, Private Plaintiffs request that the Court further extend the relevant Private Plaintiffs' deadlines to file bills of costs and move for attorneys' fees and costs to 30 days after the last deadline for any party to file a petition for certiorari in connection with any appeal of this Court's order. And if any party petitions for certiorari after the court of appeals' mandate issues, Private Plaintiffs request that the Court further extend those deadlines until 30 days after resolution of the petition for certiorari and any subsequent proceeding.

Dated: October 25, 2024.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I certify that on October 24, 2024, I conferred via e-mail with counsel for all parties regarding Private Plaintiffs' intention to seek this extension of time to seek costs and fees. At the time of filing of this motion, counsel for Defendants and Intervenor-Defendants had not provided any position on this motion. Accordingly, this motion has been marked as opposed.

/s/ Zachary Dolling

CERTIFICATE OF SERVICE

By my signature below, I certify that a true and correct copy of the foregoing has been served on all counsel of record on October 25, 2024, through the Electronic Case File System of the Western District of Texas.

/s/ Ashley Harris